

December 5, 2008

TO; Teresa Parsons
 Director's Review Program Supervisor

FROM: Meredith Huff, SPHR
 Director's Review Investigator

Re: Lynne Waldher v. Dept. of Transportation (DOT)
 Allocation Review Request No. ALLO-08-010

Director's Review

The Director's review of DOT's allocation determination of Ms. Lynne Waldher's position (#11443) is complete. Ms. Waldher submitted a Request for Director's Review form on February 08, 2008. Ms. Waldher noted that she would be represented by Mr. Vincent Oliveri, IFPTE, Local 17.

On October 9, 2008, the Director's review conference was held at the Personnel Resources Board's office in Olympia WA. Present at the Director's review meeting were Lynne Waldher, DOT employee; Vincent Oliveri, IFPTE Local 17, representing Ms. Waldher, and Mina Barahimi, IFPTE Local 17 staff assistant; and Niki Pavlicek, Classification and Compensation Manager representing DOT.

Director's Review Determination

As the Director's review investigator, I carefully reviewed all of the documentation in the file, the class specifications and the information provided during the Director's review conference. Based on my review and analysis, I conclude that on an overall best fit basis the Transportation Engineer 2 classification encompasses the duties and responsibilities of Ms. Waldher's position. Ms. Waldher's position is appropriately allocated.

Background

Ms. Waldher's position is located in the Northwest Region, Utilities Unit of DOT. Her working title is Utility Accommodation Engineer. Ms. Waldher and her supervisor, Ahmad Wehbe, jointly requested a reallocation of her Transportation Technician 3 (TT3) position by submitting a Classification Questionnaire (CQ) to DOT's Human Resources office which was received on May 18, 2007. (Exhibit A-5) By letter dated January 9, 2008, Ms. Pavlicek determined that Ms. Waldher's position would be reallocated from Transportation Technician 3 to Transportation Engineer 2 (TE2). (Exhibit A-4) Ms. Waldher submitted a Request for Director's Review Form dated February 08, 2008 requesting a

Director's review of DOT's determination. Ms. Waldher feels her position should be reallocated to the Transportation Engineer 3 (TE3) classification. (Exhibits A-1 and 2)

Summary of Ms. Waldher's Comments

During the Director's review conference, Ms. Waldher explained that she functions as a staff specialist for the Utility Accommodation program in the Northwest Region office of DOT. She handles utility permits and franchises in King County. She contends her responsibility for utilities' applications for permits and franchises to use state road right of ways is a complex area of limited scope. Examples of utilities that she deals with include electric, natural gas, water lines, storm sewer, cable TV, and fiber optics. In some cases, Ms. Waldher stated she researches records to determine if there is an expired or a current permit or franchise. She indicated she completes all of the necessary research and process steps to grant a franchise or permit, including signing the cover letter. She determines and assembles all the appropriate amendments, variances, legal documents, blue prints etc. into the approval document. She clarified she does not work with a set type of utility permit/franchise or a specific client. Ms. Waldher stated she receives her assignments from her supervisor. She confirmed there are no distinguishing differences between the utility requests assigned to her or to the three other employees in her unit. Ms. Waldher verified that Don Willis, NW Region Utility/RR Engineer, signs the completed permit or franchise before it is released.

Ms. Waldher asserted that she is a specialist in issuing permits and franchise for utilities and is a contact person for utilities companies and local agencies. Ms. Waldher commented that on the CQ, the 40% utility Permit/Franchise Application processing and the 30% Utility Accommodation go "hand-in-hand". (Exhibit B-HR2) Ms. Waldher stated that she reads and evaluates the design specifications, drawing plans, blueprints and charts that are submitted with the permit/franchise applications. When evaluating the utility plans, she indicated she determines if the work is in the right of way of the State roadway, who has jurisdiction, and if there are any discrepancies in the utilities plans. Ms. Waldher confirmed that when processing the utility permits/franchises she determines which fee is imposed for the permit/franchise based on the appropriate category; there is a set fee structure. She explained that her experience and knowledge allows her to make judgment calls on whether category 1, 2, or 3 describes the permit request. She further explained that category 1, 2, and 3 relate to the impact on the right of way with 1 being the worst impact and 3 being the least impact. Ms. Waldher stated that she and her supervisor frequently meet with the utility companies and local agencies to discuss permits/franchise requirements. Ms. Waldher stated that she believes her position fits the TE3 classification.

On Ms. Waldher's behalf, Mr. Oliveri indicated the TE3 class is the best fit for Ms. Waldher's position. He noted she works under little supervision and serves as a specialist in a complex area of limited scope. He stated that she serves as a representative in meetings with local agencies and utilities in King County. Mr. Oliveri also pointed out the DOT Performance Management Program Competencies (Exhibit A-8) for the TE3 has a section that specifically discusses the performance of the utility accommodation engineer.

Ms. Waldher and Mr. Oliveri maintained that the Transportation Engineer 2 class is not appropriate because Ms. Waldher's issuance of utility permits and franchises is not specifically related to the Preliminary Engineering subheading as designated in the Distinguishing Characteristics of the TE2 classification. They emphasized that Ms. Waldher's work better fits the Transportation Engineer 3

Distinguishing Characteristics that state “*serve as a staff specialist in a complex area of limited scope (this may include serving as a staff specialist consultant to Local Agencies).*”

Summary of DOT’s Comments

In DOT’s allocation determination letter dated January 9, 2008, Ms. Pavlicek reallocated Ms. Waldher’s position from Transportation Technician 3 to the Transportation Engineer 2 (TE2) classification, effective May 18, 2007. During the review conference, Ms. Pavlicek acknowledged that Ms. Waldher works independently. She indicated that the focus of Ms. Waldher’s position made the TE2 the best fit. She noted the following Distinguishing Characteristics section from the TE2 classification closely describes Ms. Waldher’s work: “*Researches and reviews applications submitted by utilities for placement of their facilities in state right of way; writes utility permits and franchises plus prepares supporting documentation, legal descriptions, special provisions and exhibits; writes and processes utility, turnback, local agency, developer and private party agreements using standard format; prepares related correspondence and exhibits which define the division of responsibility; assists in administering agreements, maintains agreement ledgers and status reports; assesses impact of proposed land development projects upon state transportation system; recommends mitigation measures; coordinates design details of privately constructed highway improvements.*” (Exhibit B-HR5). Ms. Pavlicek confirmed that Ms. Waldher’s responsibilities and assignments best fit within the TE2 classification.

Rationale for Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work accomplished, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

When determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position’s duties and responsibilities. See Dudley v. Dept of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced Allegrì v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant’s duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

When there is a definition that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position will be allocated to the class with the definition that includes the position Mikitik v Depts. of Wildlife and Personnel, PAB No. A88-021 (1989).

Classification Questionnaire

Ms. Waldher describes her responsibilities and the division of work time in the CQ as follows:

30% Utility Accommodation: Serves as a specialist in accommodating utility installations, buried and aerial, within the State right of way; point of contact for Local Agencies and WSDOT personnel who require assistance in highway utility installation matters. The Utility accommodation Engineer applies WSDOT policies, standards and procedure as well as engineering principles, methods and practices for any given installation to be permitted, including identifying permits which may be required by WSDOT HQ and outside agencies. Facilitates meetings and field reviews as needed. Possesses familiarity with Utility related WACs and RCWs.

40% Utility Permit/Franchise Application Processing: Working independently processing Category 12, 2, and 34 utility permits, utility franchises and utility franchise amendments, survey permits, customizes standard forms as needed and contacts applicants directly for additional information as needed. **Permit and franchise processing includes:** Determining application category fee and setting up JA account; evaluate the applicant's documentation components which include, design specifications, drawing plans, profile and details/sections, Utility facility Description, Construction Traffic Control Plan; Determine the need for a variance; Determine engineering accuracy of submitted documentation and compliance to State laws, regulations, and requirements for the proposed installation; Initiate and facilitate meetings to resolve complex utility placement issues which may include leases, easements, utility agreements, acquired right of way issues, and coordination of multiple utility providers; Identify Specialty Engineers for the review of applications, Request approval recommendation. Formulate recommendations for the supervisor or manager, as required.

20% Design Review Support, Guidance & Training: Review proposed coordinated design submittals from Developer Services, utility providers, and municipalities for major projects investigating possible existing permits/franchises and the requirement for future permits/franchises for the new design. Review Airspace Leases, perform property Surplus Reviews and other investigations as assigned. As the knowledge specialist, provide guidance to Design Team Leaders on utility accommodation related issues. Assign and track the submittal date for all utility applications when in conjunction with a WSDOT project.

5% Maintain records/Documentation: Enter engineering data in the Utility Permit/Franchise Statewide database to document the approved permit/franchise as well as maintaining paper files, digital records on the server, and summary of all work in-progress and completed.

5% Utility Office Support: Train and/or assist co-workers on various computer programs or processes as needed arises. Design an improved office lay-out and create file cabinet space. Identify value added process improvements for our office and improved coordination with our customers. Assist management by providing innovative strategy for complex issues as they arise.

Ms. Waldher commented during the review conference that the 30% work time doing utility accommodation goes "hand in hand" with the 40% work time doing Utility Permit/Franchise Application Processing.

Mr. Wehbe signed the CQ confirming his agreement with the Ms. Waldher's statements and indicating that he provides "*little supervision – employee responsible for devising own work methods.*" The second level supervisor, Don Wills, NWR Utilities & RR Engineer, indicated his agreement with Ms. Waldher's stated work tasks and duties and signed the CQ. (Exhibit B-HR2)

Transportation Engineer 3 (66160)

The following is copied, in part, from the Transportation Engineer 3 classification:

"Definition: Performs advance transportation engineering work under limited supervision.

Distinguishing Characteristics: At this level, incumbents are generally placed in charge of a major project or functional area which is characterized by supervising several support staff (staff may include or consist of contracted consultants) or serve as a staff specialist in a complex area of limited scope (this may include serving as a staff specialist consultant to Local Agencies). Incumbents are expected to possess a thorough working knowledge of agency policies, standards and procedures as well as engineering principles, methods and practices. Assignments require judgments in selecting and adapting techniques to solve transportation problems. Incumbents may represent the Department at public meetings, open houses, to local agencies, contractors, consultants, etc., for specific projects. While work is occasionally spot-checked and reviewed upon completion, incumbents are responsible for planning and carrying out projects with only minimal supervision. Staff at this level are often called on to assign, train and evaluate engineers and technicians

The statements of work in the TE3 Distinguishing Characteristics provide guidance to the breadth of impact and the scope of responsibility that is encompassed in the Definition statement of "Performs *advance transportation engineering work* ..." (Emphasis added.) Such Distinguishing Characteristics statements include:

"Leader of a design/PS&E preparation team or traffic design/PS&E preparation team . . .the team leader also does the most complex design work such as writing new specifications, traffic switches, etc.

Traffic: Traffic Signals: Performs capacity analysis to determine optimum signal timing and phasing. Directs and creates base plans. .. writes special provisions for innovative traffic signals deviating from standard techniques . . .

Surveillance Control and Driver Information: Creative design of specialized systems including complex elements such as mainline conduit and communications . . .

Materials: Geotechnical designer of complex projects such as one- or two-span bridges of extensive length over varying ground conditions, multi-span bridges, . . . " (Underline added)

Ms Waldher's work responsibilities for utility accommodation include assisting WSDOT personnel, local agencies and utility companies with highway utility installation situations. She applies DOT policies, standards and procedures to the installation and identifies any permits that are required. Her work responsibilities for utility permit/franchise application processing include determining the applicable fee from an established fee schedule, evaluating the applicant's submitted documentation, including design specifications and drawing plans, determining compliance with state laws and regulations, and facilitating meetings to resolve issues such as leases, easements, right of way issues.

Ms. Waldher stated her supervisor attends these meetings with her. She identifies Specialty Engineers to review applications and provide approval recommendations.

The scope of Ms. Waldher's work as described on the CQ and during the review conference does not achieve the level of *advance transportation engineering work* that is anticipated by the Definition of the TE3 class. Her work does not reach the level of creativity, the specialization or the breadth of independent responsibility expressed in the Distinguishing Characteristics. Transportation Engineer 3 is not the best fit overall for Ms. Waldher's position.

Mr. Oliveri noted during the review conference that the WSDOT Performance Management Program Competencies for the TE3 includes a section for evaluating the performance of the Utility Accommodation Engineer. This document was adopted in July 2007, which is outside the time frame for this review and was not included in this investigation. (Exhibit A-8)

Transportation Engineer 2 (66140)

The following is copied from the Transportation Engineer 2 classification.

"Definition: Performs transportation engineering work under general supervision.

Distinguishing Characteristics: Work at this level is characterized by the independent application of standard engineering procedures and techniques to accomplish a wide variety of work in the office, laboratory, and/or field. Incumbents generally serve as full production staff or crew leaders. Work is assigned through general instructions and the setting of deadlines by a supervisor who engages in ongoing spot-check review, provides assistance when problems are encountered and reviews completed work. This role may include the leadership of technical support staff and entry level engineers such that incumbents are called upon to direct and train staff.

Incumbents typically perform the level of work described below a majority of the time. This description is not intended to be all-inclusive but representative of the level of responsibility and level of difficulty of the work performed by this class. . . .

Preliminary Engineering

....Researches and reviews applications submitted by utilities for placement of their facilities in state right of way; writes utility permits and franchises plus prepares supporting documentation, legal descriptions, special provisions and exhibits; writes and processes utility, turnback, local agency, developer and private party agreements using standard format; prepares related correspondence and exhibits which define the division of responsibility; assists in administering agreements, maintains agreement ledgers and status reports; assesses impact of proposed land development projects upon state transportation system; recommends mitigation measures; coordinates design details of privately constructed highway improvements."

Ms. Waldher performs transportation engineering work under general supervision in her position as Utility Accommodation Engineer as specified by the Definition of this class. As described on the CQ, when processing utility permit/franchise applications, Ms. Waldher prepares supporting documents, legal descriptions, special provisions and exhibits in an approval document for her second level supervisor's approval and signature of the requested utility permits/franchises. She evaluates the impact

of proposed projects and determines appropriate fees from a set fee schedule. Her evaluation requires her to read design specifications, blue prints and drawings. Together with her supervisor, she meets with utilities and local agencies to resolve problems and discuss issues. Ms. Waldher works with DOT personnel, and local agencies in accommodating utility installations, buried and aerial within the State highway right of ways. She applies DOT policies, standards and procedures as well as engineering principles, methods and practices for utility installation. These duties and responsibilities are encompassed in the Definition and Distinguishing Characteristics of the Transportation Engineer 2 class.

Ms. Waldher expressed concerns that in the TE2 class, *Preliminary Engineering* is the subheading of the discussion regarding utilities accommodation, applications and permitting. I understand and have considered Ms. Waldher's concern. The criteria for allocating a position are ordered by Class Series Concept, if any, class Definition, and class Distinguishing Characteristics. The former Personnel Appeals Board found that when a classification Definition specifically addresses a position, that position should be allocated to that class. (See Mikitik v Depts. of Wildlife and Personnel, PAB No. A88-021 (1989) This concept is appropriately applied also when the Distinguishing Characteristics speak directly to a specific set of responsibilities or duties of a position. The Distinguishing Characteristics of the TE2 speak directly to responsibilities for utility facilities being placed in state right of ways and writing utility permits and franchises. These are the responsibilities that jointly require 70% of Ms. Waldher's work time. My conclusion is that the paragraph regarding utility placement, permitting and franchising in state right of way closely matches Ms. Waldher's work and responsibilities as described in the CQ.

The work and responsibilities of Ms. Waldher's position as Utility Accommodation Engineer are addressed in the Definition and Distinguishing Characteristics of the TE2. The Transportation Engineer 2 provides the best fit overall for Ms. Waldher's duties and responsibilities. Ms. Waldher's position is appropriately allocated to the Transportation Engineer 2 class.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:
An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

cc: Vincent Oliveri, IFPTE Local 17
Lynne Waldher, DOT
Niki Pavlicek, DOT
Lisa Skriletz, DOP

Enclosure: List of Exhibits

List of Exhibits

A. Employee's Exhibits Filed February 8, 2008:

1. Letter requesting Director's Review dated February 4, 2008
2. Director's Review Request form.
3. January 9, 2008 email from Niki Pavlicek
4. January 9, 2008 Reallocation Decision letter
Retroactive Pay Due table
5. May 2007 Classification Questionnaire with attached Essential Job Functions
6. Org chart of Northwest Region Planning—SnoKing Area
7. Org chart of Urban Corridors Office
8. WSDOT Performance Management Program Competencies(7 pages)
9. Classification specifications for Transportation Engineer 3 (530M)

B Agency's Exhibits. Filed April 29, 2008:

- HR1. January 9, 2008 Reallocation Decision letter
HR2. Classification Questionnaire signed and dated
HR3. Organizational chart
HR4. Classification Specs for Transportation Technician 3 (66100)
HR5. Classification Specs for Transportation Engineer 2 (66140)
HR6. Classification Specs for Transportation Engineer 3 (66160)

Employee Exhibits

1. Essential Job Functions (yellow tab)
 2. Classification Questionnaire (yellow tab)
 3. 530MET01 (yellow tab)
- Exhibit-3-A. Sound Transit Park and Ride
Exhibit-3-B. Cascade Water Alliance
Exhibit-3-C. Utility Specialist
Exhibit-3-D. Value Added Process
Exhibit-3-F. Example: Typical Communications Involving Upper Management and Headquarters.

C. Requested by Director's Review Investigator from DOT, October 7, 2008:

Article 37.3.A.1 of Collective Bargaining Agreement by and between The State of WA and IFPTE,
Local 17, AFL-CIO Effective July 1, 2005 through June 30, 2007.

D. Review conference statement, submitted by Ms. Waldher dated 10/9/08, (5 pages).